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UNITED STATES OF AMERICA

10
11 UNITED STATES DISTRICT COURT

12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,

No. CR 23-564-MWF-1,2,4,5,6

14 Plaintiff,

STIPULATION AND JOINT REQUEST FOR
A PROTECTIVE ORDER REGARDING
DISCOVERY CONTAINING PERSONAL
IDENTIFYING INFORMATION, MEDICAL
INFORMATION, PRIVACY ACT
INFORMATION, AND CONFIDENTIAL
WITNESS INFORMATION

15 v.

16 ERICK OVED ESTRADA, ET AL.,

17 **ERICK OVED ESTRADA (#1),**

18 **ARIAN ALANI (#2),**

[PROPOSED] ORDER FILED
SEPARATELY

19 **GILBERTO MARQUEZ (#4),**

20 **CASEYA CHANNEL BROWN (#5), and**

21 **ZOILA MICHELLE MARQUEZ (#6),**

22 Defendants.

23
24 Plaintiff, United States of America, by and through its counsel
25 of record, the United States Attorney for the Central District of
26 California and Assistant United States Attorney MiRi Song, and
27 defendants Erick Oved Estrada (#1) ("E. ESTRADA"), Arian Alani (#2)
28 ("ALANI"), Gilberto Marquez (#4) ("MARQUEZ"), Caseya Chanel Brown

1 (#5) ("BROWN"), and Zoila Michelle Estrada (#6) ("Z. ESTRADA"),
2 (collectively, "defendants"), by and through their respective
3 counsel of record, Andy Beltran, Deputy Federal Public Defender
4 Shannon M. Coit, Ambrosio E. Rodriguez, Robert M. Helfend, and
5 Carlos L. Juárez, (collectively, the "parties"), for the reasons set
6 forth below, request that the Court enter the proposed protective
7 order (the "Protective Order") governing the use and dissemination
8 of (1) personal identifying information ("PII") of real persons
9 pursuant to Federal Rule of Criminal Procedure Rule 16(d)(1),
10 (2) medical or health information, and (3) information related to
11 confidential witnesses who may testify at trial.

12 Introduction and Grounds for Protective Order

13 1. Defendants are charged in this matter with violation(s) of
14 21 U.S.C. §§ 846, 841(a)(1) (Distribution of Controlled Substances
15 and Conspiracy) and/or 18 U.S.C. § 1957 (Transactional Money
16 Laundering). Defendants are currently detained pending trial.

17 2. A protective order is necessary because the government
18 intends to produce to the defense materials regarding confidential
19 witnesses who participated in the government's investigation and who
20 may testify at trial. Because these materials could be used to
21 identify the confidential witnesses, the government believes that
22 the unauthorized dissemination or distribution of the materials may
23 expose him/her to potential safety risks.

24 3. A protective order is also necessary because the
25 government intends to produce to the defense materials containing
26 third parties' PII and medical information. The government believes
27 that disclosure of this information without limitation risks the
28 privacy and security of the information's legitimate owners. The

1 medical information at issue may also be subject to various federal
2 laws protecting the privacy of medical records, including provisions
3 of the Privacy Act, 5 U.S.C. § 552a; provisions of 45 C.F.R.
4 §§ 164.102-164.534; and/or provisions of 42 U.S.C. § 1306. Because
5 the government has an ongoing obligation to protect third parties'
6 PII and medical information, the government cannot produce to
7 defendants an unredacted set of discovery containing this
8 information without the Court entering the Protective Order.
9 Moreover, PII and medical information make up a significant part of
10 the discovery in this case and such information itself, in many
11 instances, has evidentiary value. If the government were to attempt
12 to redact all this information in strict compliance with Federal
13 Rule of Criminal Procedure 49.1, the Central District of
14 California's Local Rules regarding redaction, and the Privacy Policy
15 of the United States Judicial Conference, the defense would receive
16 a set of discovery that would be highly confusing and difficult to
17 understand, and it would be challenging for defense counsel to
18 adequately evaluate the case, provide advice to their respective
19 defendants, or prepare for trial.

20 4. The government intends to produce to the defense materials
21 that may contain information within the scope of the Privacy Act, 5
22 U.S.C. § 552a ("Privacy Act Information"). The Court finds that, to
23 the extent that these materials contain Privacy Act information,
24 disclosure is authorized pursuant to 5 U.S.C. § 552a(b) (11).

25 5. The purpose of the Protective Order is to (a) allow the
26 government to comply with its discovery obligations while protecting
27 this sensitive information from unauthorized dissemination, and
28 (b) provide the defense with sufficient information to adequately

1 represent its defendant.

2 Definitions

3 6. The parties agree to the following definitions:

4 a. "CI Materials" includes any information relating to a
5 confidential witness's prior history of cooperation with law
6 enforcement, prior criminal history, statements, or any other
7 information that could be used to identify a confidential witness,
8 such as a name, image, address, date of birth, or unique personal
9 identification number, such as a Social Security number, driver's
10 license number, account number, or telephone number.

11 b. "PII Materials" includes any information that can be
12 used to identify a person, including a name, address, date of birth,
13 Social Security number, driver's license number, telephone number,
14 account number, email address, or personal identification number.

15 c. "Medical Materials" includes any individually
16 identifiable health information that is connected to a patient's
17 name, address, or other identifying number, such as a Social
18 Security number or Medicare/Medi-Cal number.

19 d. "Confidential Information" refers to any document or
20 information containing CI Materials, PII Materials, or Medical
21 Materials that the government produces to the defense pursuant to
22 this Protective Order and any copies thereof.

23 e. A "Defense Team" includes (1) a defendant's counsel
24 of record ("defense counsel"); (2) other attorneys at defense
25 counsel's law firm who may be consulted regarding case strategy in
26 this case; (3) defense investigators who are assisting defense
27 counsel with this case; (4) retained experts or potential experts;
28 and (5) paralegals, legal assistants, and other support staff to

1 defense counsel who are providing assistance on this case. The
2 Defense Team does not include its defendant, defendant's family
3 members, or any other associates of defendant.

4 Terms of the Protective Order

5 7. The parties jointly request the Court enter the Protective
6 Order, which will permit the government to produce Confidential
7 Information in a manner that preserves the privacy and security of
8 third parties. The parties agree that the following conditions in
9 the Protective Order will serve these interests:

10 a. The government is authorized to provide defense
11 counsel with Confidential Information marked with the following
12 legend: "CONFIDENTIAL INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE
13 ORDER." The government may put that legend on the digital medium
14 (such as DVD or hard drive) or simply label a digital folder on the
15 digital medium to cover the content of that digital folder. The
16 government may also redact any PII contained in the production of
17 Confidential Information.

18 b. If a defendant objects to a designation that material
19 contains Confidential Information, the parties shall meet and
20 confer. If the parties cannot reach an agreement regarding the
21 defendant's objection, the defendant may apply to the Court to have
22 the designation removed.

23 c. Defendants and their respective Defense Team agree to
24 use the Confidential Information solely to prepare for any pretrial
25 motions, plea negotiations, trial, and sentencing hearing in this
26 case, as well as any appellate and post-conviction proceedings
27 related to this case.

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1 d. A Defense Team shall not permit anyone other than the
2 Defense Team to have possession of Confidential Information,
3 including its defendant, while outside the presence of the Defense
4 Team.

5 e. Notwithstanding the paragraph above, a defendant may
6 see and review CI Materials only in the presence of his or her
7 defense counsel, and defense counsel shall ensure that the defendant
8 is never left alone with any CI Materials. At the conclusion of any
9 meeting with a defendant at which the defendant is permitted to view
10 CI Materials, the defendant must return any CI Materials to his or
11 her defense counsel, who shall take all such materials with counsel.
12 A defendant may not take any CI Materials out of the room in which
13 the defendant is meeting with his or her defense counsel. At no
14 time, under no circumstance, will any Confidential Information be
15 left in the possession, custody, or control of a defendant,
16 regardless of the defendant's custody status.

17 f. If defense counsel wishes to enable his or her
18 defendant to review CI Materials in the presence of any person on
19 the Defense Team other than defense counsel, defense counsel shall
20 submit a letter to government counsel of record (currently,
21 Assistant United States Attorney MiRi Song) identifying that person
22 (the "designated person"), and shall submit a copy of this
23 stipulation that has been signed by that designated person. Upon
24 receipt of those materials, if the government, in its sole
25 discretion, finds the designated person acceptable, prior to the
26 designated person reviewing any CI Materials with a defendant,
27 government counsel of record will confirm in writing that the
28 defendant is additionally allowed to review CI Materials in the

1 presence of the designated person.

2 g. A defendant may review PII Materials and Medical
3 Materials only in the presence of a member of his or her Defense
4 Team, who shall ensure that its defendant is never left alone with
5 any PII Materials or Medical Materials. At the conclusion of any
6 meeting with a defendant at which the defendant is permitted to view
7 PII Materials or Medical Materials, the defendant must return any
8 PII Materials or Medical Materials to his or her Defense Team, and
9 the member of the Defense Team present shall take all such materials
10 with him or her. A defendant may not take any PII Materials or
11 Medical Materials out of the room in which the defendant is meeting
12 with the Defense Team.

13 h. A defendant may see and review Confidential
14 Information as permitted by this Protective Order, but the defendant
15 may not copy, keep, maintain, or otherwise possess any Confidential
16 Information in this case at any time. A defendant also may not
17 write down or memorialize any data or information contained in the
18 Confidential Information.

19 i. The Defense Team may review Confidential Information
20 with a witness or potential witness in this case, including its
21 defendant. Defense counsel must be present whenever any cooperating
22 witness materials are being shown to a witness or potential witness.
23 A member of the Defense Team must be present if PII Materials or
24 Medical Materials are being shown to a witness or potential witness.
25 Before being shown any portion of Confidential Information, however,
26 any witness or potential witness must be informed of, and agree in
27 writing to be bound by, the requirements of the Protective Order.
28 No member of the Defense Team shall permit a witness or potential

1 witness to retain Confidential Information or any notes generated
2 from Confidential Information.

3 j. The Defense Team shall maintain Confidential
4 Information safely and securely, and shall exercise reasonable care
5 in ensuring the confidentiality of those materials by (1) not
6 permitting anyone other than members of the Defense Team, its
7 defendant, witnesses, and potential witnesses, as restricted above,
8 to see Confidential Information; (2) not divulging to anyone other
9 than members of the Defense Team, defendant, witnesses, and
10 potential witnesses, the contents of Confidential Information; and
11 (3) not permitting Confidential Information to be outside the
12 Defense Team's offices, homes, vehicles, or personal presence. CI
13 Materials shall not be left unattended in any vehicle.

14 k. To the extent that a defendant, his or her Defense
15 Team, witnesses, or potential witnesses create notes that contain,
16 in whole or in part, Confidential Information, or to the extent that
17 copies are made for authorized use by members of the Defense Team,
18 such notes, copies, or reproductions become Confidential Information
19 subject to the Protective Order and must be handled in accordance
20 with the terms of the Protective Order.

21 l. A Defense Team shall use Confidential Information
22 only for the litigation of this matter and for no other purpose.
23 Litigation of this matter includes any appeal filed by a defendant
24 and any motion filed by the defendant pursuant to 28 U.S.C. § 2255.
25 In the event that a party needs to file Confidential Information
26 with the Court or divulge the contents of Confidential Information
27 in court filings, the filing should be made under seal. If the
28 Court rejects the request to file such information under seal, the

1 party seeking to file such information publicly shall provide
2 advance written notice to the other party to afford such party an
3 opportunity to object or otherwise respond to such intention. If
4 the other party does not object to the proposed filing, the party
5 seeking to file such information shall redact any CI Materials, PII
6 Materials, or Medical Materials and make all reasonable attempts to
7 limit the divulging of: CI Materials, PII Materials, or Medical
8 Materials.

9 m. The parties agree that any Confidential Information
10 inadvertently produced in the course of discovery prior to entry of
11 the Protective Order shall be subject to the terms of the Protective
12 Order. If Confidential Information was inadvertently produced prior
13 to entry of the Protective Order without being marked "CONFIDENTIAL
14 INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE ORDER," the government
15 shall reproduce the material with the correct designation and notify
16 defense counsel of the error. A Defense Team shall take immediate
17 steps to destroy the unmarked material, including any copies.

18 n. The parties agree that if any Confidential
19 Information contains both CI Materials and another category of
20 Confidential Information, the information shall be handled in
21 accordance with the CI Materials provisions of the Protective Order.

22 o. Confidential Information shall not be used by a
23 defendant or his or her Defense Team, in any way, in any other
24 matter, absent an order by this Court. All materials designated
25 subject to the Protective Order maintained in a Defense Team's files
26 shall remain subject to the Protective Order unless and until such
27 order is modified by this Court. Within 30 days of the conclusion
28 of appellate and post-conviction proceedings, defense counsel shall

1 return CI Materials to the government or certify that such materials
2 have been destroyed. Within 30 days of the conclusion of appellate
3 and post-conviction proceedings, defense counsel shall return all
4 PII Materials or Medical Materials, certify that such materials have
5 been destroyed, or certify that such materials are being kept
6 pursuant to the California Business and Professions Code and the
7 California Rules of Professional Conduct.

8 p. In the event that there is a substitution of counsel
9 prior to when such documents must be returned, new defense counsel
10 must be informed of, and agree in writing to be bound by, the
11 requirements of the Protective Order before the undersigned defense
12 counsel transfers any Confidential Information to the new defense
13 counsel. New defense counsel's written agreement to be bound by the
14 terms of the Protective Order must be returned to the Assistant U.S.
15 Attorney assigned to the case. New defense counsel then will become
16 the Defense Team's custodian of materials designated subject to the
17 Protective Order and shall then become responsible, upon the
18 conclusion of appellate and post-conviction proceedings, for:
19 (1) returning to the government, certifying the destruction of, or
20 retaining pursuant to the California Business and Professions Code
21 and the California Rules of Professional Conduct all PII Materials
22 or Medical Materials; and (2) returning to the government or
23 certifying the destruction of all CI Materials.

24 q. Defense counsel agree to advise their respective
25 defendants and all members of his or her Defense Team of their
26 obligations under the Protective Order and ensure their agreement to
27 follow the Protective Order, prior to providing his or her defendant
28 and members of the Defense Team with access to any materials subject

1 to the Protective Order.

2 r. Defense Counsel has conferred with their respective
3 defendants regarding this stipulation and the proposed order
4 thereon, and defendants agree to the terms of the proposed order.

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1 s. Accordingly, the parties have agreed to request that
2 the Court enter a protective order in the form submitted herewith.

3 IT IS SO STIPULATED.

4 DATED: December 27, 2023

E. MARTIN ESTRADA
United States Attorney

MACK E. JENKINS
Assistant United States Attorney
Chief, Criminal Division

8 /s/ MiRi Song

9 MIRI SONG
10 Assistant United States Attorney
11 Attorneys for Plaintiff
12 UNITED STATES OF AMERICA

13 DATED: December 27, 2023

14 /s/ with email authorization
ANDY BELTRAN
Attorney for Defendant
ERICK OVED ESTRADA (#1)

15 DATED: December 27, 2023

16 /s/ with email authorization
SHANNON M. COIT
17 Deputy Federal Public Defender
Attorney for Defendant
ARIAN ALANI (#2)

18 DATED: December 27, 2023

19 /s/ with email authorization
AMBROSIO E. RODRIGUEZ
20 Attorney for Defendant
GILBERTO MARQUEZ (#4)

21 DATED: December 27, 2023

22 /s/ with email authorization
ROBERT M. HELFEND
23 Attorney for Defendant
CASEYA CHANNEL BROWN (#5)

24 DATED: December 27, 2023

25 /s/ with email authorization
CARLOS L. JUÁREZ
26 Attorney for Defendant
ZOILA MICHELLE ESTRADA (#6)